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2. Judgment (§ 642*)—Conclusiveness.—Where the Supreme Court of Appeals on the original hearing and on rehearing adjudicates a controversy, it cannot be reopened.

[Ed. Note.—For other cases, see Judgment, Cent. Dig. § 1156; Dec. Dig. § 642.* 14 Va.-W. Va. Enc. Dig. 112.]

Petition for mandamus by one Miller against one Turner, Judge. Mandamus awarded.

PHENIX INS. CO. OF BROOKLYN, N. Y. *v.* SHERMAN.

June 6, 1910.

[68 S. E. 1119.]

Error to Circuit Court, Wise County. Action by J. B. Sherman against the Phenix Insurance Company of Brooklyn, N. Y. Judgment for plaintiff. Defendant brings error. Reversed. Phlegar & Powell and Irwine & Morrison, for plaintiff in error. Bullitt & Chalkley and W. T. Mathews, for defendant in error.

PER CURIAM. The court being of opinion that this case is controlled by the opinion and judgment of this court in the case of Phenix Insurance Company of Hartford, Conn., *v.* J. B. Sherman, decided November 18, 1909, and reported in 66 S. E. 81, it is therefore ordered that the judgment of the circuit court of Wise county be reversed, and this court will enter such judgment as the circuit court should have entered. Reversed.

WASHINGTON *v.* WASHINGTON.

Nov. 17, 1910.

[69 S. E. 322.]

Divorce (§ 37*)—Ground—Desertion—What Constitutes.—Desertion was shown, entitling the wife to an absolute divorce, where it appeared that the husband had abandoned her continuously for five or six years, during which time he had not cohabited with her or contributed any thing to ward her support, though she endeavored to induce him to return and live with her.

[Ed. Note.—For other cases, see Divorce, Cent. Dig. §§ 107-138; Dec. Dig. § 37.* 4 Va.-W. Va. Enc. Dig. 738.]

Appeal from Circuit Court, Rockingham County.

Suit by Ida Allen Washington against Henry Washington. From a decree for defendant, plaintiff appeals. Reversed and remanded, for decree as directed.

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.